

REMARKS

This reply is in response to the Non-Final Office Action mailed on June 02, 2008 in which Claims 1, 2, 4-9, 12 and 14 were rejected. With this response Claims 1, 2, 5-6, 9, 12 and 14 are presented for reconsideration and allowance. Applicants submit that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

I. Cancellation of claims

Dependent claims 4, 7 and 8 have been cancelled in the present office action.

II. Amended Claims

Independent claim 1, 9, and 12 have been amended in the present application. Claims 1 and 9 have been amended to correct typographical errors. In addition, claim 1 has been amended to include the subject matter "associating captured data with a physical description of the subject of the captured image." Furthermore, claim 12 has been amended to include the subject matter "physical information of the subject of the captured image." Support for the added subject matter in claims 1, 9, and 12 may be found in the specifications.

III. Rejection of claim 12 and 14 under 35 USC 112, second paragraph

Section 7 of the Office Action rejected claims 12 and 14 as being indefinite for failing to particularly point out and distinctively claim the subject matter which applicant regards as the invention. In particular, the Office Action asserted that claim 12 is an improper hybrid claim calling for both an apparatus and the method steps of using the apparatus.

Claim 12 has been amended to call forth only an apparatus. As a result, the claim is definite and particularly points out and distinctively claims the subject matter for the invention. Applicant requests withdrawal of the rejection of independent claim 12 and dependent claim 14, as being dependent on independent claim 12.

IV. Rejection of Claims 1, 2, 4-9, 12, and 14 under 35 USC 112, first paragraph

Section 8 of the Office Action rejected Claims 1, 2, 4-9, 12, and 14 as failing to comply with the written description requirement. In particular, the Office Action asserts that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skill in the art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1 and 9 have been amended to claim “calculating the position of the object of the captured image by translating only the range, magnetic bearing, and the global position coordinates to provide coordinates of the object.” Support for the subject matter in amended Claim 1 and 9 may be found in the specification. Specification section 0024 disclose that the “camera position, range to the object of the photograph, the inclination of the camera, and the angle with respect to north of the camera lens, the actual coordinates of the object of the photograph is determined.” Furthermore, specification section 0024 defines “the inclination of the camera, and the angle with respect to north” as a “magnetic bearing” and specification section 0026 discloses that position of the camera is obtained from the GPS device. As a result, the subject matter in the claims are fully disclosed in the specification as to reasonably convey to one skilled in the art that the inventor(s), at the time the application was filed, had possession of the invention.

As such, Applicants respectfully request withdrawal of the rejection of independent claims 1 and 9 and dependent claims 2 and 4-8, as being dependent on independent claim 1. Withdrawal of this rejection is requested.

In addition, independent claim 12 has been amended and no longer claims “magnetic bearing from the global position coordinates.” As a result, the subject matter in the claims are fully disclosed in the specification as to reasonably convey to one skilled in the art that the inventor(s), at the time the application was filed, had possession of the invention. As such, Applicants respectfully request withdrawal of the rejection of independent claim 12 and dependent claim 14, as being dependent on independent claim 12. Withdrawal of this rejection is requested.

V. Rejection of claims 12 and 14 under 35 USC 101 because the claimed invention is directed to neither a “process” nor a “machine”

Section 10 of the Office Action rejected Claims 12 and 14 as failing to comply with 35 USC 101. In particular, the Office Action asserts that the claims are not directed to a process or a machine, but rather embrace or overlap two different statutory classes of inventions.

Claim 12 has been amended to be directed toward an apparatus. As a result, the claim does not embrace or overlap two different statutory classes of inventions and complies with 35 USC 101. Applicant requests withdrawal of the rejection of independent claim 12 and dependent claim 14, as being dependent on independent claim 12.

VI. Rejection of claims 1-2, 12 and 14 under 35 USC 102(b) in anticipation of Ball (US-7,184,088)

Section 13 of the Office Action rejected claim 1-2, 12 and 14 under 35 USC 102(b) as being anticipated by Ball et al. US – 7,184,088. Applicants respectfully assert that the rejection of such claims based upon Ball is without merit and should be withdrawn.

Independent claim 1 has been amended to include “associating captured data with a physical description of the subject of the captured image.” Applicants assert that Ball does not anticipate claim 1 because Ball fails to teach “associating captured data with a physical description of the subject of the captured image.”

Ball does not disclose that the data or the image stored is associated with a physical description of the subject of the captured image. As seen in Col 15, Ln. 1-15, measured data may be viewed and confirmation given that the correct target area has been identified and accurately shot by reference to the freeze frame image and the overlaid data window. As seen in Fig. 18 of Ball, the user may save the data, image or both to the memory in the computer using an appropriate push button on the input device. As a result, the data, image, or both the data and image are merely stored to the memory

in the computer with no description of the subject matter of the captured image associated with the data or image and Ball does not anticipate independent claim 1 because Ball fails to teach “associating captured data with a physical description of the subject of the captured image.”

Applicant respectfully requests withdrawal of the rejection of independent claim 1 and dependent claim 2, as being dependent on independent claim 1.

Additionally, Applicants assert that Ball does not anticipate claim 12, because Ball fails to disclose “a physical information of the subject of the captured image.” According to Fig 2 and 18, and Col. 15, line 1 – 15, the data may be sent from the computer the monitor and the user 154 may view data and confirm that the correct target area has been identified. The user 154 may then save the data, image, or both to the memory in the computer using an appropriate push button on the input device 172. Multiple measurements of this nature may be recorded for each pixel and creating a 3-D image of different target areas. Nowhere in Ball is it disclosed that there may be physical information of the subject of the captured image available for the camera. As a result, Ball fails to teach that the camera may comprise “physical information of the subject of the captured image” and thus does not anticipate claim 12, because the camera in Ball is limited measurement information and data of the of the target image.

Applicant respectfully requests withdrawal of the rejection of independent claim 12 and dependent claim 14, as being dependent on independent claim 12.

VII. Rejection of claims 4-9 under 35 USC 103(a) as being unpatentable over Ball (US - 7,184,088) in view of Cazier (US - 6,657,661)

Section 15 of the Office Action rejected claim 4-9 under 35 USC 103(a) as being unpatentable over Ball et al. US – 7,184,088 in view of Cazier (US – 6,657,661). Applicants respectfully assert that the rejection of such claims based upon Ball in view of Cazier is without merit and should be withdrawn.

Dependent claims 4, 7, and 8 have been cancelled and independent claim 1 has been amended to include “associating captured data with a physical description of the subject of the captured image.” As noted above, nowhere in Ball is a method disclosed

that associates captured data with a physical description of the subject of the captured image. Further, Cazier does not teach what Ball lacks and does not associate captured data with a physical description of the subject of the captured image. As seen in Fig. 1 and Fig. 2 of Cazier, the information that Cazier associates with, is with the image itself and based on longitude and latitude 102 of the digital camera, determined by a GPS device. As a result, Ball does not anticipate the independent claims 1 nor 9 in view of Cazier, because Ball does not disclose “associating captured data with a physical description of the subject of the captured image” and the description in Cazier is limited to location names 104 and the location of the digital camera, as opposed to the location of the object and physical information of the object within the image, as in the present invention.

Applicant respectfully requests withdrawal of the rejection of independent claim 9 and dependent claims 5-6, as being dependent on independent claim 1.

VIII. Conclusion

After amending the claims as set forth above, claims 1-2, 5-6, 9, 12, and 14 are now pending in this application.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 08-2025. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 08-2025. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petitions

Atty. Dkt. No.: 200206922

for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 08-2025.

Respectfully submitted,

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